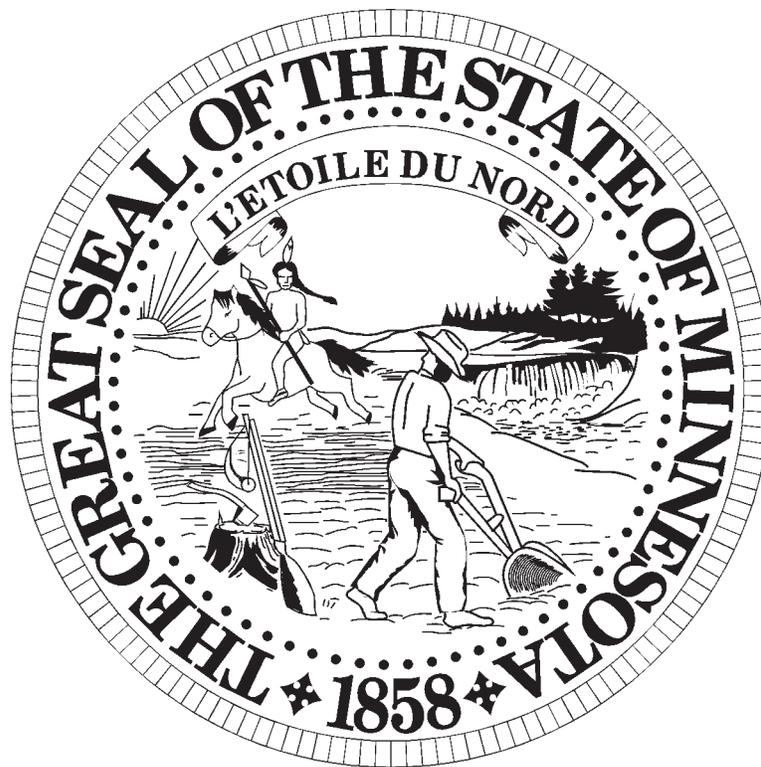


State of Minnesota

State Register



Rules and Official Notices Edition

Published every Monday (Tuesday when Monday is a holiday)
by the Department of Administration – Communications Media Division

Monday 18 October 2004
Volume 29, Number 16
Pages 411 - 438

State Register

Judicial Notice Shall Be Taken of Material Published in the State Register

The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- proposed, adopted, exempt, expedited emergency and withdrawn rules
- executive orders of the governor
- appointments
- proclamations and commendations
- commissioners' orders
- revenue notices
- official notices
- state grants and loans
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- certificates of assumed name, registration of insignia and marks

PUBLISHING NOTICES IN THE *State Register*: Submit TWO COPIES of your notice, typed double-spaced. State agency submissions must include a "State Register Printing Order" form, and a "Certification/Internal Contract Negotiation" form with contracts for professional, technical and consulting services. Non-State Agencies should submit TWO COPIES, with a letter on your letterhead stationery requesting publication and date to be published. FAXED submissions to (651) 297-8260 are received to meet deadline requirements, but must be followed by originals and applicable forms or letters to be accepted. The charge is \$14.40 per tenth of a page (columns are seven inches wide). About 2-1/2 pages typed double-spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Contact the editor if you have questions.

SUBSCRIPTION SERVICES:

Copies are available at Minnesota's Bookstore, 660 Olive Street, St. Paul, MN 55155. Order by phone: Metro area: (651) 297-3000 Toll free (800) 657-3757. TTY relay service phone number: (800) 627-3529. **NO REFUNDS.** Subscribers who do not receive a copy of an issue should notify the *State Register* Subscription Office immediately at (651) 297-8774. Copies of back issues may not be available more than two weeks after publication. Both editions are delivered postpaid to points in the United States, Periodicals Postage Paid for the *State Register* at St. Paul, MN, first class for the *Solicitation Announcements*. **POSTMASTER:** Send address changes to Minnesota's Bookstore, 660 Olive Street, St. Paul, Minnesota 55155. See the *State Register* and *Solicitation Announcements* at **website:** <http://www.comm.media.state.mn.us> Click on "Minnesota's Bookstore."

- *State Register*: On-line subscription – \$180, includes links, index, sidebar table of contents and *State Register* SENT TO YOU via Email.
- 13-week trial subscription to the *State Register* - \$65.00.
- Single issues are available for a limited time: *State Register* \$5.00.
- "Affidavit of Publication" costs \$10.00 and includes a notarized "Affidavit" and a copy of the issue.

Printing Schedule and Submission Deadlines			
Vol. 29		Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts	Deadline for Both Adopted and Proposed RULES
Issue Number	PUBLISH DATE		
#16	Monday 18 October	Noon Tuesday 12 October	Noon Wednesday 6 October
#17	Monday 25 October	Noon Tuesday 19 October	Noon Wednesday 13 October
#18	Monday 1 November	Noon Tuesday 26 October	Noon Wednesday 20 October
#19	Monday 8 November	Noon Tuesday 2 November	Noon Wednesday 27 October

Copyright © 2004 Communications Media Division, Department of Administration, State of Minnesota.
Publication Number: 326630 (ISSN 0146-7751)

THE STATE REGISTER IS PUBLISHED by Communications Media Division, Department of Administration, State of Minnesota, pursuant to *Minnesota Statutes* § 14.46 and is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; the Legislative Reference Library; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Education.

Tim Pawlenty, Governor (651) 296-3391
Carol L. Molnau, Lt. Governor (651) 296-3391
Mike Hatch, Attorney General (651) 297-4272
Patricia Anderson, State Auditor (651) 297-3670
Mary Kiffmeyer, Secretary of State (651) 296-2079

Department of Administration:
Brian Lamb, Commissioner (651) 296-1424
Communications Media Division:
Mary Mikes, Director (651) 297-3979

Robin PanLener, Editor (651) 297-7963
John Mikes, assistant editor (651) 297-4616
Jessie Rahmeyer, Subscriptions (651) 297-8774

Minnesota Legislative Information

Senate Public Information Office (651) 296-0504 House Public Information Services (651) 296-2146: State Office Building, State Capitol, Room 231, St. Paul, MN 55155 Room 175, Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155

Website: www.senate.leg.state.mn.us/departments/secretary/seninfo.htm **Website:** www.house.leg.state.mn.us/hinfo/hinfo.htm

Federal Register

Office of the Federal Register (202) 512-1530; or (888) 293-6498
U.S. Government Printing Office – Fax: (202) 512-1262
Website: http://www.access.gpo.gov/su_docs/aces/aces140.html

Minnesota State Court System

Court Information Office (651) 296-6043
Minnesota Judicial Center, Room 135, 25 Rev. Dr. Martin Luther King Jr Blvd., St. Paul, MN 55155 **Website:** www.courts.state.mn.us

Minnesota Rules: Amendments & Additions

Monday 18 October 2004, Volume 29, #14-16..... 414

Proposed Rules

Pollution Control Agency

Municipal Division: Proposed Permanent Rules
 Relating to Storm Water Regulatory Program..... 415

Exempt Rules

Labor and Industry Department

Occupational Safety and Health Division: Proposed
 Exempt Permanent Rules Relating to Occupational
 Safety and Health..... 426

Official Notices

Emergency Medical Services Regulatory Board

Completed Application for the License Application of the Lake
 City Ambulance Service, Lake City, Minnesota..... 428

Health Department

Division of Environmental Health, Asbestos, Indoor Air,
 Lead and Radiation Section, Radiation Control Unit:
 Request for Comments on Possible Repeal of Rules
 Governing Ionizing Radiation..... 429

Ombudsman for Mental Health and Mental Retardation

Advisory Committee Meeting Thursday 21 October 2004... 430

State Grants & Loans

Administration Department

Minnesota Governor's Council on Developmental Disabilities:
 Request for Proposals to Provide Administration and
 Operation of a One-Stop Support Center for Families
 of Children with Developmental Disabilities in the
 Jordan Community of Minneapolis..... 430

Human Services Department

Request for Proposals for Competitive Urban Primary
 Support Program Primary to Implement the Indian
 Child Welfare Act..... 430
 Request for Proposals for Special Focus Grant Program
 To Implement the Minnesota Indian Family
 Preservation Act..... 431

State Contracts

Human Services Department

Notice of Request for Proposals to Conduct Medical
 Necessity Determination Reviews..... 431

Minnesota House of Representatives

Public Information Services Office: Public Notice of
 Request for Bid for Mailing of the House Public
 Information Services Office Publication *Session*
Weekly..... 432

Public Information Services Office: Public Notice of
 Request for Bid for Printing the *Session Weekly*..... 432

Transportation Department

Engineering Services Division: Potential Availability of
 Contracting Opportunities for a Variety of Highway
 Related Technical Activities (the "Consultant
 Pre-qualification Program")..... 433

Engineering Services Division: Professional/Technical
 Contract Opportunities..... 433

Non-State Contracts & Grants

Hawthorne Area Community Council (HACC)

Notice of Request for Proposals for Housing
 Development..... 433

Metropolitan Council

Notice of Request for Proposals 2005 - 2010 Metro
 Mobility Demand Service..... 434

Metropolitan Council - Metro Transit

Sealed Bids Sought for Passenger Waiting Shelters..... 434

Minnesota State Court, 4th Judicial District (Hennepin County)

Request for Proposal for Conversion of 4th Judicial
 District Case Tracking Data to MNCIS..... 435

Three Rivers Community Action, Inc.

Notice of Bid Proposals to Operate a Transit System..... 435

University of Minnesota

Bid Information Service (BIS) Available for All Potential
 Vendors..... 436

2005 Consultant Prequalification Program Request for
 Qualifications (RFQ)..... 436

Commodity, Service and Construction Contracts information is
 available from the Materials Management Helpline
 (651) 296-2600, or Web site: www.mmd.admin.state.mn.us
 Information or subscriptions to the *State Register* is available
 through Minnesota's Bookstore (651) 297-3000, or (800)
 657-3757, Web site: www.minnesotasbookstore.com

Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

Volume 29, Issues #14-16

(See Issue #13 for the rule numbers that appeared in issues #1 - 13)

Labor and Industry Department

5205.0010 (proposed exempt).....	426
5208.1500 (proposed exempt).....	381

Pollution Control Agency

7001.0040; .1040; 7002.0220; .0250; 7090.0010; .0020; .0030; .0040; .0060; .0080; .1000; .1010; .1040; .2000; .2010; .2020; .2030; .2040; 2060; .3000; .3010; .3040; .3060; .3080 (proposed).....	415
7001.1020 s. 16a, 16b, 16c, 16d, 17a, 28a; .1035 (proposed repealer).....	415

Proposed Rules

Comments on Planned Rules or Rule Amendments. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing. After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing. Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pollution Control Agency Municipal Division

Proposed Permanent Rules Relating to Storm Water Regulatory Program

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing Are Received

Proposed Rule Amendments Governing Stormwater Permits, Water Quality Permit Fees, and the Stormwater Regulatory Program, to be Codified in *Minnesota Rules* Chapter 7090, with Conforming Amendments to *Minnesota Rules* Chapters 7001 and 7002.

Introduction. The Minnesota Pollution Control Agency (MPCA) intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on November 18, 2004, three public hearings will be held, each of which will start at 1:00 p.m., at the following locations on the dates indicated:

- November 30, 2004: Blue Earth County Library, Auditorium, 100 East Main Street, Mankato, MN 56001;
- December 1, 2004: MPCA Brainerd Regional Office, Conference Room, 7678 College Road, Suite 105, Baxter, MN 56425;
and
- December 2, 2004: MPCA St. Paul Office, Board Room, 520 Lafayette Road North, St. Paul, MN 55155.

To find out whether the rules will be adopted without hearings or if the hearings will be held, you should contact the MPCA contact person after November 18, 2004, and before November 30, 2004.

MPCA Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the MPCA contact person. The MPCA contact person is: Mary Hoffman Lynn, MPCA, Municipal Division, 520 Lafayette Road North, St. Paul, MN 55155-4194, **phone:** (651) 297-2331; **Facsimile:** (651) 297-8676 and **email:** stormh2orules@pca.state.mn.us. TTY users may call the MPCA at **TTY** (651) 292-5332 or 1-800-657-3864.

Background. This rulemaking is needed to fulfill Minnesota's responsibilities as a state delegated by the U.S. Environmental Protection Agency (EPA) to administer the National Pollutant Discharge Elimination System (NPDES) Program. To retain this delegation, the MPCA, authorized to administer the NPDES Program since 1974, must periodically revise relevant parts of the program to incorporate federal changes. Currently, the MPCA is required to incorporate federally-mandated changes into the NPDES Stormwater Program, the result of which expands the Stormwater Program. These proposed rules are intended to satisfy this requirement.

Amendments to the Clean Water Act in 1987, resulted in the EPA implementing a two-phased comprehensive national program for stormwater discharges under the NPDES Program. To meet delegation requirements, states were initially required to incorporate Phase I regulations into their program, which required NPDES Permits for two broad categories of stormwater discharges: 1) medium and large Municipal Separate Storm Sewer Systems (MS4s) serving populations of 100,000 or more; and 2) 11 categories of industrial activity,

Proposed Rules

including larger construction activities disturbing five or more acres of land. Accordingly, the MPCA promulgated administrative and regulatory rules in 1994 and 1995, to incorporate the Phase I requirements into the NPDES Program. The Phase II federal regulations (promulgated by the EPA on December 8, 1999), expanded the scope of the existing NPDES permitting program to include discharges of stormwater from: 1) smaller MS4s in urbanized areas; 2) construction activities that disturb between one and five acres; and 3) smaller municipally-owned industrial activities. As with the Phase I process, delegated states are required to modify their NPDES Program to incorporate the Phase II stormwater requirements.

Subject of the Rules. The MPCA is proposing to amend the existing rules governing NPDES Stormwater Permits, with minor revisions to *Minnesota Rules*, chapter 7001 and chapter 7002, and to create a new chapter of state water rules for the Stormwater Regulatory Program, *Minnesota Rules*, chapter 7090. The proposed rules contain permit requirements for regulating stormwater discharges from three main sources: MS4s, construction activity, and industrial activity. The proposed rules also include a minor revision to the existing rules governing the water quality permit fees, *Minnesota Rules*, chapter 7002, by amending the definitions for stormwater permits to be consistent with the proposed rules, and to clarify the application fee requirement for a permit modification. In general, this proposed rule will establish the following: a) the Phase II NPDES Permit requirements for each of the three stormwater program areas (MS4s, construction and industrial); b) minimum program requirements; c) the MS4 designation criteria and process; d) the conditional exclusion for certain feedlot and agricultural construction activities; and e) the conditional exclusion for no exposure of industrial activity. Each of these areas is described below.

A. Phase II NPDES Permit requirements. This portion of the proposed rules establishes when MS4s and construction activities are required to obtain permit coverage. Permit requirements for industrial activity are also established in these proposed rules; however, no new categories of industrial activity were added under the Phase II regulations.

1. The proposed MS4 rule provisions contain the requirements for permit coverage for all federally regulated small MS4s and designated small MS4s. The Phase I federal regulations required NPDES permit coverage for the cities of Minneapolis and St. Paul. The Phase II federal regulations require NPDES Permit coverage for approximately 200 additional MS4s, including municipalities located within the boundaries of an urbanized area. Approximately 44 additional small MS4s will also be designated for permit coverage under the proposed rules.

2. For the construction program, the proposed rules establish the permit requirements for small construction activity, which includes clearing, grading and excavating that result in the land disturbance of equal to or greater than one acre and less than five acres. Construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale, if the larger common plan will ultimately disturb equal to or greater than one acre. The proposed rules define construction activity to include both small construction activity and also the large construction activity that was regulated under the Phase I program.

B. Minimum Program Requirements. This portion of the proposed rules applies to the MS4, construction, and industrial programs.

1. For the MS4 Program, the proposed rules establish the requirement for regulated small MS4s to develop a Stormwater Pollution Prevention Program that specifically includes the six minimum control measures identified in the federal regulations. The program must be designed to reduce the discharge of pollutants from their municipal storm sewer system.

2. For the construction program, the proposed rules establish the requirement for owners of construction activities covered under the Construction Stormwater Permit to develop a Stormwater Pollution Prevention Plan designed to minimize pollutant runoff from the construction site. Owners and operators of construction activities that require permit coverage must comply with the stormwater management practices established in the proposed rules, including erosion prevention and sediment control best management practices (BMPs).

3. For the industrial program, the proposed rules establish the requirement for owners and operators of regulated industrial activities to develop a Stormwater Pollution Prevention Plan that is designed to eliminate or minimize stormwater contact with significant materials that may result in polluted stormwater discharges from the industrial site.

C. MS4 Designation Criteria and Process. This portion of the proposed rules applies to the MS4 Program. The MPCA is required to establish designation criteria and apply them to all small MS4s located outside of an urbanized area that serve a jurisdiction with a population of at least 10,000 and a population density of at least 1,000 people per square mile. The proposed rules establish criteria that will designate additional MS4s for permit coverage under this rulemaking, and criteria that can be applied to designate future MS4s under the designation and petition process identified in rule. Criteria to be considered in determining designation include: discharge to sensitive waters, high growth, and population density. The proposed rules will designate approximately 88 partial MS4s. Partial MS4s are MS4s that are located partially within an urbanized area and, by federal rule, do not require permit coverage for the portion of the MS4 located outside of the urbanized area. Many of these MS4s that have a portion of their MS4 located outside of the urbanized area have already submitted a permit application and a Stormwater Pollution Prevention Program for their entire MS4.

The proposed rules also designate approximately 44 additional small MS4s located outside of the urbanized area. These include municipalities with a current population of 10,000 and greater, and municipalities with a population of 5,000 and greater that discharge

or have the potential to discharge to a special or impaired water. The proposed rules also defer the deadline for designated MS4s to apply for permit coverage within 18 months of designation or meeting designation criteria.

D. Conditional Exclusion for Certain Feedlot and Agricultural Construction Activities. This portion of the proposed rules applies to the construction program. The MPCA is proposing a streamlined permitting procedure for two groups of regulated parties, feedlots and soil conservation practice projects, which would conditionally exclude them from the requirement to apply for a construction stormwater permit, if specific eligibility criteria are met. Feedlot and conservation project construction activities would not be exempt from the Stormwater Regulatory Program, but would need to comply with specific erosion prevention and sediment control BMPs established in the rules, or apply for permit coverage. The MPCA anticipates that this streamlined approach will make as much progress toward meeting the Phase II regulatory goals, as the traditional NPDES regulatory approach to permitting. This approach would also be considered good rulemaking under *Minnesota Statutes* §14.002, performance-based regulatory systems.

E. Conditional Exclusion for No Exposure of Industrial Activities. This portion of the rules applies to the industrial program. The proposed rules establish the Phase II conditional exclusion for no exposure in state rules so that the MPCA can administer and implement the no exposure provision in Minnesota. Under the Phase I federal regulations, the no exposure provision was only available to a limited category of industrial facilities; under the Phase II regulations, the no exposure exclusion now applies to all regulated categories of industrial activity listed in the Phase I regulations, except construction activity. The conditional no exposure exclusion from permitting allows facilities that meet specific eligibility criteria to certify a condition of no exposure instead of obtaining an industrial stormwater permit. The no exposure exclusion is conditional and is not an outright exemption from the Stormwater Regulatory Program. A facility that has been issued a no exposure certification must maintain the condition of no exposure or obtain permit coverage.

Statutory Authority. The statutory authority to adopt these proposed rules is *Minnesota Statutes*, section 115.03, subdivision 5c, paragraph (b), which provides the agency specific rulemaking authority for promulgating stormwater rules. Additional authority is set forth in *Minnesota Statutes*, section 115.03, subdivision 5, which grants the agency the authority to promulgate rules needed to administer NPDES permits, and also in section 115.03, subdivision 1(e), which provides the MPCA general authority to promulgate rules in order to prevent or abate water pollution.

Availability of Rules. A copy of the proposed rules is published in the *State Register* after this notice, or they can be viewed at the MPCA web site at: <http://www.pca.state.mn.us/water/stormwater/stormwater-rules.html>. A free copy of the proposed rules is also available upon request by contacting Eva Johnson at (651) 296-7276. Only one copy will be sent per request.

Comments. You have until 4:30 p.m., on November 18, 2004, to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the MPCA contact person by the due date. Written comments may be submitted to the MPCA contact person at the address, facsimile number, or email address listed above. Comments are encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the MPCA contact person by 4:30 p.m., on November 18, 2004. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the MPCA when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the public hearings, scheduled above, will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain the actions the MPCA took to affect the withdrawal, and ask for written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, or if you need an accommodation to make this hearing accessible, please contact the MPCA contact person at the address, telephone number, or email address listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the MPCA or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearings scheduled for November 30, 2004, December 1, 2004, and December 2, 2004, as indicated above, will be canceled if the MPCA does not receive requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the MPCA will notify you before the scheduled hearing whether or not the hearing will be held. You may also

Proposed Rules

call the MPCA contact person at (651) 297-2331 after November 18, 2004, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules, hearings will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearings will be held on the dates and at the time and places listed above. Each hearing will continue until all interested persons have been heard. Administrative Law Judge Steve Mihalchick is assigned to conduct the hearing. Judge Mihalchick can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, MN 55401-2138, **telephone** (612) 349-2544, and **facsimile** (612) 349-2665.

Hearing Procedure. If hearings are held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days, if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the MPCA and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The MPCA requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the MPCA contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness (SONAR) is now available from the MPCA by contacting Eva Johnson at (651) 296-7276. This SONAR contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the SONAR may be obtained at the cost of reproduction from the MPCA. In addition, the MPCA has placed a copy of the SONAR on its **Web site** at: <http://www.pca.state.mn.us/water/stormwater/stormwater-rules.html>.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, MN, 55155, telephone (651) 296-5148 or 1-800-657-3889.

Request to Have MPCA Citizens' Board Make Decision on Rule if No Hearing is Required. If hearings are required, the MPCA Citizens' Board will make the final decision on whether to adopt the proposed rules. However, even if hearings are not required, you may submit a request to the MPCA Commissioner or an MPCA Citizens' Board member to have the MPCA Citizens' Board make the decision on whether to adopt the proposed rule amendments. Your request must be in writing, must state to whom it is directed, and must be received by the MPCA contact person by 4:30 p.m., on November 18, 2004. Under *Minnesota Statutes*, section 116.02, where a hearing is not required, the MPCA Citizens' Board will only make the decision on the rule if the MPCA Commissioner grants your request or if an MPCA Citizens' Board member makes a timely request that the decision be made by the MPCA Citizens' Board.

Adoption Procedure if No Hearing. If no hearing is required, the MPCA may adopt the rules after the end of the 30-day comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may request the MPCA contact person to notify you of the date the rules are submitted to the Office of Administrative Hearings. In addition, if you want to receive a copy of the adopted rules, or want to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA contact person listed above.

Adoption Procedure After a Hearing. If hearings are held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date when the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the MPCA adopts the rules and the rules are filed with the Secretary of State, and can make this request at the hearing or in writing to the MPCA contact person stated above.

Order. I order that the rulemaking hearings be held at the dates, time, and locations listed above.

Dated: 1 October 2004

Sheryl A. Corrigan, Commissioner
Minnesota Pollution Control Agency

7001.0040 APPLICATION DEADLINES.

Subpart 1. **Application for new permit.** Except as otherwise required by parts 7001.0530 and 7001.1040 or chapter 7090, a permit application for a new facility or activity may be submitted at any time. However, it is recommended that the permit application be submitted at least 180 days before the planned date of the commencement of facility construction or of the activity.

[For text of subps 2 to 4, see M.R.]

7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.

[For text of item A, see M.R.]

B. Persons proposing activities that require a general construction storm water permit under this chapter 7090 must submit an application provided by the agency prior to initiation of construction.

7002.0220 DEFINITIONS.

[For text of subps 1 to 3, see M.R.]

Subp. 3a. **General construction storm water permit.** “General construction storm water permit” means a an NPDES general permit that is for storm water discharges associated with construction activity as defined in part 7001.1020 7090.0080, subpart 16a 4.

Subp. 3b. **General industrial storm water permit.** “General industrial storm water permit” means a an NPDES general permit that is for storm water discharges associated with industrial activity as defined in part 7001.1020 7090.0080, subpart 16b 6.

Subp. 3c. **Individual storm water permit.** “Individual storm water permit” means a an NPDES permit that is for storm water discharges associated with a specific site and type of activity as defined in part 7001.1020, subpart 16c under Code of Federal Regulations, title 40, section 122.26(b)(4), (7), and (14)(16). Fees for this permit are set in part 7002.0310, subpart 2, item B, under “other nonmunicipal.”

[For text of subps 4 to 9, see M.R.]

7002.0250 APPLICATION FEE.

A person who applies for a permit to construct, install, modify, or operate a facility, or applies for a permit modification as described in part 7001.0190, excluding changes in ownership or control, name or address changes other than changes in facility location, and interim and construction shortform permits issued under chapter 7020, shall submit with the application the appropriate application fee. Failure to submit the fee renders the application incomplete and the agency shall suspend processing of the application until the fee is received. Application fees are nonrefundable.

7090.0010 SCOPE.

This chapter establishes the storm water permit program to regulate discharges of storm water from municipal separate storm sewer systems, construction activities, and industrial activities for purposes of abating water pollution associated with storm water discharges from these sources.

7090.0020 PERMIT PROCESS.

Unless otherwise specifically stated under this chapter, the process of applying for, issuing, reissuing, revoking, or modifying storm water permits is as stated for National Pollutant Discharge Elimination System (NPDES) permits under chapter 7001.

7090.0030 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** A National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) storm water permit is required:

A. for municipal separate storm sewer systems under part 7090.1010;

B. for construction activities under part 7090.2010;

C. for industrial activities under part 7090.3010; and

D. if a water quality management plan adopted pursuant to section 208 of the Clean Water Act, *United States Code*, title 33, section 1288, recommends that pollution control requirements be applied to the discharge.

Subp. 2. **NPDES/SDS permit.** If a person who discharges storm water into the waters of the state is required by *Minnesota Statutes* or *Rules* to obtain both a NPDES permit and a SDS permit, the issuance of a NPDES permit under this chapter satisfies the requirement to obtain both permits.

7090.0040 PERMIT FEES.

Application and annual fees for storm water permits are established under parts 7002.0210 to 7002.0310.

7090.0060 INCORPORATION BY REFERENCE.

For the purposes of parts 7090.2000 to 7090.2060, the storm water discharge design requirements, construction activity requirements, and the requirements of Appendix A in the Minnesota Pollution Control Agency document General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System

Proposed Rules

Permit (NPDES/SDS) Program (construction storm water permit) are incorporated by reference. This document is subject to change every five years. For purposes of parts 7090.2000 to 7090.2060, all references to the construction storm water permit must be construed as referring to the most current version, which at the time this chapter was adopted was Permit No: MN R 100001, issued on August 1, 2003. This document can be found at the Minnesota State Law Library, Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota 55155, the Minnesota Pollution Control Agency offices, and the Minnesota Pollution Control Agency Internet site at the following address: <http://www.pca.state.mn.us/water/stormwater/stormwaterc.html>

7090.0080 DEFINITIONS.

Subpart 1. Scope. Terms employed in this chapter for which definitions are given in *Minnesota Statutes*, sections 115.01 and 116.06, have the meanings given them in those sections. The terms specified in this part have the meanings given them in this part.

Subp. 2. Best management practices. “Best management practices” or “BMPs” means practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions of practices, and other management practice, and also includes treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

Subp. 3. Common plan of development or sale. “Common plan of development or sale” means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. “One plan” is broadly defined to include design, permit application, advertisement, or physical demarcation indicating that land disturbing activities may occur.

Subp. 4. Construction activity. “Construction activity” means activities for the purpose of construction, including clearing, grading, and excavating, that result in land disturbance of equal to or greater than one acre, including the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated storm water runoff which may lead to soil erosion and movement of sediment. Construction activity does not include a disturbance to the land of less than five acres for the purpose of routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility.

Subp. 5. Decennial census. “Decennial census” means the census of population and housing taken in each year ending in zero, as defined by the United States Census Bureau.

Subp. 6. Industrial activity. “Industrial activity” means the 11 categories of industrial activity which are directly related to manufacturing, processing, or raw materials storage areas at an industrial plant, as defined in *Code of Federal Regulations*, title 40, section 122.26(b)(14)(i)(xi).

Subp. 7. Municipality. “Municipality” means a county, a city, a town, the Metropolitan Council when acting under the provisions of *Minnesota Statutes*, chapter 473, or other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution.

Subp. 8. Municipal separate storm sewer system. “Municipal separate storm sewer system” or “MS4” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains:

A. owned or operated by a state, city, town, county, district, association, or other public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district, or drainage district or similar entity, or an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section 208 of the federal Clean Water Act, *United States Code*, title 33, section 1288, that discharges into waters of the state;

B. designed or used for collecting or conveying storm water;

C. that is not a combined sewer; and

D. that is not part of a publicly owned treatment works as defined in *Code of Federal Regulations*, title 40, section 122.2.

Municipal separate storm sewer systems do not include separate storm sewers in very discrete areas, such as individual buildings.

Subp. 9. No exposure. “No exposure” means that all industrial materials or activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snow melt, or runoff. “Industrial materials or activities” include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, byproducts, final products, or waste products. Material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, or waste product.

Subp. 10. Operator. “Operator” means:

A. the person with primary operational control and legal responsibility for the municipal separate storm sewer system under part 7090.1000;

B. the person designated by the owner who has daytoday operational control or the ability to modify project plans and specifications

related to the storm water pollution prevention plan under part 7090.2000; or

C. the person responsible for the overall operation of an industrial facility under part 7090.3000.

Subp. 11. Owner. “Owner” means:

A. the person that owns the municipal separate storm sewer system under part 7090.1000;

B. the person or party possessing the title of the land on which the construction activities will occur; if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity under part 7090.2000; or

C. the person who owns an industrial facility or part of an industrial facility under part 7090.3000.

Subp. 12. Storm water or stormwater. “Storm water” or “stormwater” means storm water runoff, snow melt runoff, and surface runoff and drainage. It includes the term “stormwater” as used in agency documents.

Subp. 13. Surface waters. “Surface waters” means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Subp. 14. Urbanized area. “Urbanized area” means a land area consisting of one or more places and the adjacent urban fringe as defined by the United States Census Bureau. These areas contain at least 50,000 people and an overall population density of at least 1,000 people per square mile of land.

7090.1000 MUNICIPAL SEPARATE STORM SEWER SYSTEM PROGRAM.

Parts 7090.1000 to 7090.1040 state the requirements for municipal separate storm sewer systems (MS4s) that are regulated in accordance with *Code of Federal Regulations*, title 40, section 122.26(a)(1)(iii) and (iv), and (a)(9)(i)(A), section 123.35(b), and *Minnesota Statutes*, section 115.03.

7090.1010 MS4 PERMIT REQUIREMENTS.

Subpart 1. Permits required. An NPDES/SDS storm water permit is required within the specified time period for MS4s identified in items A to C. An owner or operator of an MS4 must submit a complete permit application requesting a permit. Once an MS4 is required to obtain a permit, the requirement remains in effect until the requirement is removed pursuant to subpart 4, item B.

A. MS4s located in an urbanized area in whole or in part, that are regulated in accordance with *Code of Federal Regulations*, title 40, section 122.26(a)(1)(iii) and (iv), and (a)(9)(i)(A), including any publicly owned entity such as a military base, hospital, prison or correctional facility, college, or university with a potential resident capacity, bed count occupancy, or average daily user population of 1,000 or more.

B. MS4s that meet the following criteria must submit a complete application for a permit within 18 months of meeting the criteria:

(1) the entire jurisdiction of a city or township that is partially regulated in accordance with *Code of Federal Regulations*, title 40, section 122.26(a)(9)(i)(A);

(2) the MS4 is owned or operated by a municipality with a population of 10,000 or more based on the most recent decennial census or approved municipal boundary adjustment under the provisions of *Minnesota Statutes*, chapter 414; or

(3) the MS4 is owned or operated by a municipality with a population of at least 5,000 based on the most recent decennial census or approved municipal boundary adjustment under the provisions of *Minnesota Statutes*, chapter 414, and:

(a) discharges or has the potential to discharge storm water into an outstanding resource value water as identified in part 7050.0180, subparts 3 and 6; or

(b) discharges or has the potential to discharge storm water into a trout lake or trout stream as identified in part 6264.0050, subparts 2 and 4; or

(c) discharges or has the potential to discharge to a water listed as impaired under section 303(d) of the Clean Water Act, United States Code, title 33, section 1313, except those waters listed as impaired solely for mercury (Hg) or polychlorinated biphenyls (PCBs).

C. MS4s designated by the commissioner in accordance with subparts 2 and 3 must submit a complete application for a permit within 18 months of designation.

Subp. 2. Designation criteria. For purposes of this part, “designation” means a determination by the commissioner that an MS4 is subject to the permit requirements of this part. The commissioner may designate an MS4 based on the following criteria:

A. the MS4 contributes substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the NPDES storm water program in accordance with *Code of Federal Regulations*, title 40, section 123.35(b)(4); or

B. the MS4 is determined to be a significant contributor of pollutants to waters of the state or to have an adverse impact on water quality based on any of the following factors:

(1) high growth or growth potential;

(2) high population density;

(3) high seasonal population;

(4) impervious land cover;

Proposed Rules

(5) contiguity to an urbanized area as designated by the United States Census Bureau;

(6) ineffective protection of water quality by other programs;

(7) an approved or established total maximum daily load that requires reduction of a pollutant associated with storm water beyond what can be achieved with existing programs; or

(8) proximity to a high quality water such as an outstanding resource value water as identified in part 7050.0180, subparts 3 and 6, or trout stream as identified in part 6264.0050, subpart 4.

Subp. 3. Designation process.

A. The commissioner shall issue a public notice identifying MS4s that meet the designation criteria in subpart 2 and the commissioner's preliminary determination that the designation should be granted.

B. The public notice must include, at a minimum:

(1) the address and telephone number of the main agency office and the applicable agency regional office and a statement that additional information may be obtained at these offices;

(2) the name and address of the MS4, and if different, of the facility or activity that is the subject of the draft designation;

(3) a concise description of the facility or activity that is the subject of the draft designation;

(4) the criteria under which the MS4 is proposed for designation and the basis for designation;

(5) a statement that during the public comment period a person may submit comments to the agency on the draft designation or on the preliminary determination, and a statement of the dates on which the comment period begins and ends. The public comment period is 30 days unless a different public comment period is specifically established by another agency rule; and

(6) a brief description of the procedures for reaching a final decision on the designation, including procedures for requesting a public information meeting or a contested case hearing and the nature of the two types of proceedings; and any other procedures by which the public may participate in the agency's consideration of the designation.

C. The commissioner shall distribute the public notice in accordance with part 7001.0100, subpart 5.

D. A person may request a contested case hearing or public information meeting regarding the designation determination in accordance with part 7001.0130. If a contested case hearing is held, the commissioner shall comply with the procedures in part 7000.2000 before making a final determination.

E. The commissioner may make a final determination designating an MS4 by finding that the MS4 meets the criteria set forth in subpart 2.

Subp. 4. Petition process.

A. Any person may petition the commissioner for the designation of an MS4. Upon receiving a signed written petition for designation, the commissioner shall evaluate the petition and determine if designation is appropriate under subpart 2. If the commissioner determines that the designation should be granted, the process for designation shall be followed in accordance with subpart 3.

B. Any person may petition the commissioner to reevaluate the designation of an MS4 for a determination that the MS4 does not meet the criteria in subparts 1 and 2 and does not need a permit. Upon receiving a signed written petition for the reevaluation of a designation, the commissioner shall evaluate the petition and determine if the MS4 no longer meets the requirements for a permit under this part.

7090.1040 MS4 MINIMUM REQUIREMENTS.

Subpart 1. Storm water pollution prevention program required. Owners or operators of permitted MS4s must have a storm water pollution prevention program to address environmental concerns related to storm water discharge. The program must address the following minimum measures in accordance with *Code of Federal Regulations*, title 40, section 122.34(b):

A. public education and outreach;

B. public participation/involvement;

C. illicit discharge detection and elimination;

D. construction site runoff control;

E. postconstruction runoff control; and

F. pollution prevention/good housekeeping.

Subp. 2. Record keeping. Owners or operators required to have a storm water pollution prevention program under subpart 1 must maintain a copy of the program and make it available to the agency upon request.

7090.2000 CONSTRUCTION PROGRAM.

Parts 7090.2000 to 7090.2060 state the requirements for regulating storm water discharges to abate water pollution during construction activities, which are regulated in accordance with *Code of Federal Regulations*, title 40, section 122.26(a)(1) and (9)(i)(B), and *Minnesota Statutes*, section 115.03.

7090.2010 CONSTRUCTION ACTIVITY PERMIT REQUIREMENTS.

Proposed Rules

Subpart 1. Permits required. An NPDES/SDS construction storm water permit is required if:

- A. a person is conducting construction activity except for construction activities identified under part 7090.2020; or
- B. the commissioner determines that a discharge may cause or contribute to a violation of an applicable state or federal water quality rule or regulation. In making this determination, the commissioner shall consider factors including size of discharge, quantity and nature of discharge, and location of discharge.

Subp. 2. Permit application deadline.

A. Owners and operators proposing activities that require a construction storm water permit under this part must submit a complete permit application provided by the agency before conducting construction activity, or where a construction site is covered under an existing construction storm water permit, meet the subdivision registration requirements under part 7090.2060, if applicable.

B. The permit application or subdivision registration required under item A may be submitted electronically if such a method of submittal is approved by the commissioner. Notwithstanding the conditions of the construction storm water permit, the effective date of a permit under an electronic submittal must be established by the commissioner.

Subp. 3. Compliance requirements for unpermitted construction activity. Owners and operators of construction activities required to have a construction storm water permit under this part that fail to submit a permit application or subdivision registration under subpart 2 shall comply with the storm water discharge design requirements, construction activity requirements, and the requirements of Appendix A in the construction storm water permit as incorporated by reference in part 7090.0060.

Subp. 4. Emergency construction.

A. Construction activities required to minimize the impacts of an emergency situation including but not limited to floods, tornadoes, and severe storms, presenting imminent threat to human health, public drinking water, or the environment may begin before the submittal of a permit application if:

- (1) the owner notifies the commissioner when the construction activity begins; and
- (2) the owner and operator comply with the construction activity requirements, and the requirements of Appendix A in the construction storm water permit as incorporated by reference in part 7090.0060.

B. Emergency construction notification must be completed by letter, telephone, or facsimile and include:

- (1) the owner's name, and the name of the construction company if different than the owner;
- (2) the address or description of the location where the construction activity is occurring;
- (3) a list of the cities, counties, and townships where the construction activity is occurring;
- (4) the approximate acres to be disturbed by the construction activity; and
- (5) a brief description of the emergency situation.

C. A permit application must be submitted to the commissioner within seven days of the emergency construction start date.

7090.2020 CONSTRUCTION ACTIVITY CONDITIONAL EXCLUSION.

Subpart 1. Scope. Owners and operators responsible for the construction activities that meet the requirements in subparts 2 and 3 are conditionally excluded from the requirement to submit a permit application and have the option to either apply for a construction storm water permit or meet the requirements of part 7090.2030. An owner or operator conducting construction activity pursuant to this conditional exclusion that fails to comply with part 7090.2030 must submit a permit application.

Subp. 2. Feedlots. Construction activities are eligible under subpart 1 for purposes of building a new or expanded animal feedlot, manure storage area, or animal holding facility or performing related maintenance. The owner or operator must:

- A. apply for and obtain an SDS permit as required under part 7020.0405, subpart 1, item B;
- B. apply for and obtain an interim permit as required under part 7020.0405, subpart 1, item C;
- C. apply for and obtain a construction shortform permit as required under part 7020.0405, subpart 1, item D; or
- D. fulfill the preconstruction notification requirements under part 7020.2000, subpart 5.

Owners and operators of feedlot construction activities that are not subject to the permit requirements under part 7020.0405, subpart 1, or the notification requirements under part 7020.2000, subpart 5, must comply with the requirements of part 7090.2030 or apply for a construction storm water permit.

Subp. 3. Conservation practice projects. Construction activities are eligible under subpart 1 if they disturb one to less than five acres of soil for purposes of a conservation practice project including a grassed waterway, terrace or diversion, water and sediment control basin, or other conservation practice that reduces erosion and controls sediment runoff. The owner or operator must:

- A. participate in a state or federal conservation program that includes financial assistance; and
- B. utilize the design standards, construction and materials specifications, and associated construction inspection requirements maintained by the United States Department of Agriculture, Natural Resources Conservation Service, and Board of Water and Soil Resources for conservation programs, or other design standards and specifications approved by these programs.

Proposed Rules

7090.2030 BEST MANAGEMENT PRACTICES (BMPs) REQUIRED FOR CONDITIONAL EXCLUSION PROJECTS.

Subpart 1. Scope. Owners and operators responsible for construction activities that meet the requirements for a conditional exclusion under part 7090.2020 must include the BMPs in subparts 2 to 6.

Subp. 2. Minimize size of disturbed area. When permanent vegetation must be disturbed, the area of disturbance must be limited to the minimum required for the project.

Subp. 3. Sediment control. Where disturbed areas have steep slopes or concentrated flow, buffers or other sediment control BMPs, such as silt fences or staked hay bales, must be used to minimize sediment from entering surface waters and subsurface drainage systems, including tile inlets. Sediment control BMPs must be established on down gradient perimeters before any upgradient construction activities begin, except for conservation practice projects such as grassed waterways and terraces that are constructed in five days or less, and in an area where soil disturbance has occurred before construction. These BMPs must remain in place until other temporary or final stabilization practices have been established.

Subp. 4. Soil stockpiles. Topsoil or other temporary stockpiles of soil must be placed in locations where they will not be subject to erosion from channelized flow. If stockpiles are placed within 300 feet upslope of a surface water or tile inlet for more than three days, or when precipitation and runoff are imminent, a grass buffer or other equivalent sediment control BMPs, such as silt fences or staked hay bales, must be used between the soil stockpile and surface water or tile inlet.

Subp. 5. Temporary stabilization.

A. Where disturbed areas are not otherwise protected by permanent erosion control materials, disturbed areas must be seeded and temporarily stabilized until the seed establishes a permanent vegetative cover. Mulch or erosion control blanket must be applied to disturbed areas with steeper than 3:1 slopes within seven days after final grading, except for conservation practice projects such as terraces with slope lengths less than 15 feet in area where soil disturbance has occurred before construction. Other temporary stabilization BMPs must be installed within the following time frames after final grading for the indicated slopes:

- (1) slopes of 10:1 to 3:1, 14 days; and
- (2) slopes flatter than 10:1, 21 days.

B. For construction activities conditionally excluded under part 7090.2020, temporary stabilization may include any of the following BMPs that are effective for the site conditions:

- (1) compaction of the soil surface of concentrated flow areas to reduce soil erodibility;
- (2) grading along the contour and use surface roughing techniques such as slope tracking with tracked equipment;
- (3) application of mulch or erosion control blanket; and
- (4) installation of check dams such as fiber rolls; sand or gravel-filled berms, including filled bags for removal; or geotextile erosion barriers across concentrated flow areas such as waterways.

Subp. 6. Final stabilization. Disturbed areas, not including cropland, must be protected by permanent erosion control materials or other BMPs that achieve the equivalent of 70 percent uniform vegetative cover. If construction is completed after the fall seeding cutoff date, dormant seeding must be applied or any of the temporary stabilization BMPs listed in subpart 5 that are effective and appropriate for the site conditions must be implemented, and seeding and final stabilization must be implemented as soon as feasible the following spring.

7090.2040 CONSTRUCTION ACTIVITY MINIMUM REQUIREMENTS.

Subpart 1. Storm water pollution prevention plan required. Owners of construction activities required to have a construction storm water permit under part 7090.2010, subpart 1, must complete a storm water pollution prevention plan before submitting a permit application and before conducting construction activity.

Subp. 2. Record keeping. The storm water pollution prevention plan must be kept on site and made available to the agency within 72 hours of a request for review.

7090.2060 SUBDIVISION OWNER REGISTRATION.

For a construction site that is covered under an existing construction storm water permit where the owner or operator changes, the new owner or operator must:

- A. obtain a permit and develop and implement the storm water pollution prevention plan; or
- B. submit to the commissioner a subdivision registration form provided by the agency within seven days of assuming operational control of the site, conducting construction activity on their portion of the site, or of legal transfer, sale, or closing on the property, and:
 - (1) implement the provisions of the site's original storm water pollution prevention plan for the portion of the site which the construction activities will impact; or
 - (2) develop and implement a storm water pollution prevention plan for the portion of the site which the construction activities will impact according to the requirements of the construction storm water permit for the site.
- C. The new owner or operator must comply with all applicable requirements of the permit and the storm water pollution prevention

plan.

D. The new owner or operator must ensure that activities do not render another party's erosion prevention and sediment control BMPs ineffective.

7090.3000 INDUSTRIAL PROGRAM.

Parts 7090.3000 to 7090.3080 state the requirements for industrial activities that are regulated in accordance with *Code of Federal Regulations*, title 40, section 122.26(a)(1)(ii), section 122.26(g)(1)(4), and *Minnesota Statutes*, section 115.03.

7090.3010 INDUSTRIAL ACTIVITY PERMIT REQUIREMENTS.

Subpart 1. **Permits required.** An NPDES/SDS industrial storm water permit is required:

A. for industrial activity; or

B. if the commissioner determines that a discharge may cause or contribute to a violation of an applicable state or federal water quality rule or regulation. In making this determination, the commissioner shall consider factors including size of discharge, quantity and nature of discharge, and location of discharge.

Subp. 2. **Permit application deadline.** If a person proposes to construct a new facility or engage in a new activity for which a permit is required, the person shall submit a complete permit application at least 180 days before the planned date of the commencement of facility construction or of the planned date of the commencement of the activity, whichever occurs first.

7090.3040 INDUSTRIAL ACTIVITY MINIMUM REQUIREMENTS.

Subpart 1. **Storm water pollution prevention plan required.** Owners or operators of industrial activities required to have an industrial storm water permit under part 7090.3010, subpart 1, must complete a storm water pollution prevention plan before submitting a permit application.

Subp. 2. **Record keeping.** The storm water pollution prevention plan must be kept at the industrial facility and made available to the agency within 72 hours of a request for review.

7090.3060 CONDITIONAL EXCLUSION FOR NO EXPOSURE.

Subpart 1. **No exposure.** Discharges composed entirely of storm water are not discharges associated with industrial activity if there is no exposure of industrial materials and activities to rain, snow, snowmelt, or runoff, and the facility meets the requirements of this part.

Subp. 2. **Applicability.** An owner or operator required to obtain an industrial storm water permit under part 7090.3010, subpart 1, must either obtain a permit or certify a condition of no exposure.

Subp. 3. **Application requirements.** An operator certifying a condition of no exposure must submit to the commissioner an application for noexposure certification on a form provided by the agency. An application for noexposure certification must be submitted to the commissioner once every five years.

Subp. 4. **Certification issuance.** A certification of no exposure must be issued to facilities:

A. where a complete and signed application has been submitted to the commissioner; and

B. where the commissioner has verified that there is no contact of storm water with industrial activities through:

(1) a review of the application;

(2) an inspection of the facility; or

(3) other means that the commissioner finds reasonably reliable.

Subp. 5. **Limitations.**

A. Construction activities that require a permit under part 7090.2010, subpart 1, are not eligible for the conditional noexposure exclusion.

B. The conditional noexposure exclusion is available on a facilitywide basis only. Where exposure to industrial materials or activities exists at some but not all areas of the facility, a permit is required for storm water discharges from the exposed areas.

C. The noexposure exclusion is conditional. If circumstances change and the conditions for the noexposure exclusion no longer apply to the facility, the operator must comply with the requirements of part 7090.3010. Where the operator anticipates a change in circumstance and the conditions for the noexposure exclusion no longer apply, the operator shall apply for and obtain a permit under part 7090.3010 before the change of circumstance.

D. A certification of no exposure is nontransferable.

E. The commissioner retains the authority to deny the noexposure certification and require permit authorization as provided under part 7090.3010.

7090.3080 NOEXPOSURE CERTIFICATION.

The application for noexposure certification must include a noexposure certification statement. A person who signs an application for

Proposed Rules

noexposure certification must certify a condition of no exposure in accordance with Code of Federal Regulations, title 40, section 122.26(g)(4)(iv).

REPEALER. *Minnesota Rules*, parts 7001.1020, subparts 16a, 16b, 16c, 16d, 17a, and 28a; and 7001.1035, are repealed.

Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* §§ 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

Department of Labor and Industry

Occupational Safety and Health Division

Proposed Exempt Permanent Rules Relating to Occupational Safety and Health; Adoption of Federal Standards by Reference

Proposed Revisions to the Occupational Safety and Health Standards and Request for Comments

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (2004). This notice proposes the adoption by reference of amendments to Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

All interested or affected persons have 30 days from the date this notice is published in the *State Register* to submit, in writing, data and views on the proposed amendments to the rule. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any proposed change.

Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* § 182.655 and *Minnesota Rules* 5210.0020 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307.

M. Scott Brener
Commissioner

Summary of Changes

The following is a brief summary of the proposed amendments. The listing of federal standards being proposed for adoption follow this summary. To review the complete *Federal Register* notices referenced below, visit www.osha.gov.

(A) “Mechanical Power-Transmission Apparatus; Mechanical Power Presses; Telecommunications; Hydrogen; final rule;

Exempt Rules

technical amendments.” Federal OSHA published a final rule in the *Federal Register* on June 8, 2004, which corrects errors in four OSHA standards, as follows: 1) deletes two references to a previously repealed table in the Mechanical Power-Transmission Apparatus Standard; 2) corrects typos in the Mechanical Power Presses Standard; 3) corrects a cross-reference in the Telecommunications Standard; and 4) corrects a reference to a table contained in the Hazardous Materials Standard for Hydrogen. Standards affected are: 1910.219 and 1926.307; 1910.217; 1910.268; and 1910.103.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on June 8, 2004.

(B) “Controlled Negative Pressure REDON Fit Testing Protocol; final rule.” On August 4, 2004, federal OSHA published a final rule in the *Federal Register* that approves an additional quantitative fit testing protocol. The controlled negative pressure (CNP) REDON fit testing protocol, will be included in Appendix A of the Respiratory Protection Standard, 1910.134. In addition to amending the Standard to include the CNP REDON protocol, this rulemaking makes several editorial and non-substantive technical revisions to the Standard associated with CNP REDON protocol and the previously approved CNP protocol. The amendments in this rule became effective at the federal level on September 3, 2004.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on August 4, 2004.

(C) “Occupational Safety and Health Standards for Shipyard Employment; final rule; technical amendments.” On July 3, 2002, federal OSHA published technical amendments to its Shipyard Employment standards in the *Federal Register*. Typographical, grammatical and other errors were corrected, as well as several inaccurate cross-references. The technical amendments and corrections were not substantive in nature and did not impose additional compliance obligations on employers or reduce the protections provided to workers by these standards.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on July 3, 2002.

(D) “Fire Protection in Shipyard Employment; final rule.” On September 15, 2004, federal OSHA published in the *Federal Register* a final rule promulgating a fire protection standard for shipyard employment. The final standard provides increased protection for shipyard employment workers from the hazards of fire on vessels and vessel sections and at land-side facilities. The standard reflects new technologies and current national consensus standards. It also gathers all fire-related safety practices for shipyard employment into a single subpart, making them more accessible and understandable for employers and employees.

By this notice, Minnesota OSHA proposes to adopt the final rule as published in the *Federal Register* on September 15, 2004.

Rules as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

[For text of subps 1 and 1a, see M.R.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the Federal Register on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes as follows:

[For text of items A to Z, see M.R.]

AA. *Federal Register*, Volume 69:

(1) *Federal Register*, Vol. 69, No. 31, pages 73517366, dated February 17, 2004: “Commercial Diving Operations; final rule.”

(2) *Federal Register*, Vol. 69, No. 110, pages 3188031882, dated June 8, 2004: “Mechanical PowerTransmission Apparatus; Mechanical Power Presses; Telecommunications; Hydrogen; final rule; technical amendments.”

(3) *Federal Register*, Vol. 69, No. 149, pages 4698646994, dated August 4, 2004: “Controlled Negative Pressure REDON Fit Testing Protocol; final rule.”

Subp. 3. **Part 1915.** Part 1915: Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982; all changes made prior to December 31, 1986, which consolidated Part 1915 and Part 1916; technical amendments and redesignations published in Volume 58, No. 125, of the Federal Register on July 1, 1993; and additional changes as follows:

[For text of items A to AA, see M.R.]

BB. *Federal Register*, Vol. 67, No. 128, pages 4453344546, dated July 3, 2002: “Occupational Safety and Health Standards for Shipyard Employment; final rule; technical amendments.”

Exempt Rules

CC. Federal Register, Vol. 69, No. 178, pages 5566855708, dated September 15, 2004: "Fire Protection in Shipyard Employment; final rule."

[For text of subps 4 and 5, see M.R.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions, and corrections made up to October 17, 1978, the incorporation and redesignation of the regulatory text of the General Industry Occupational Safety and Health Standards (29 CFR Part 1910) that have been identified as applicable to construction work as published in the *Federal Register*, Volume 58, No. 124, dated June 30, 1993, and corrected in Volume 58, No. 143, dated July 28, 1993; and additional changes as follows:

[For text of items A to Q, see M.R.]

R. Federal Register, Volume 69:

(1) Federal Register, Vol. 69, No. 110, pages 3188031882, dated June 8, 2004: "Mechanical Power Transmission Apparatus; Mechanical Power Presses; Telecommunications; Hydrogen; final rule; technical amendments."

[For text of subp 7, see M.R.]

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking. The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Emergency Medical Services Regulatory Board

NOTICE OF COMPLETED APPLICATION In the Matter of the License Application of the Lake City Ambulance Service, Lake City, Minnesota

PLEASE TAKE NOTICE that the Emergency Medical Services Regulatory Board (hereinafter EMSRB) has received a completed application from the **Lake City Ambulance Service, Lake City, Minnesota**, for a new license, advanced ambulance – part time.

NOTICE IS HEREBY GIVEN that, pursuant to Minnesota Statutes section 144E.11, subdivision 3, each municipality, county, community health board, governing body of a regional emergency medical services system, ambulance service and other person wishing to make recommendations concerning the disposition of the application, shall make written recommendations or comments opposing the application to the EMSRB within 30 days or by November 18, 2004, 4:30 p.m.

Written recommendations or comments opposing the application should be sent to:

Mary Hedges, Executive Director,
EMSRB,
2829 University Avenue S.E., Suite 310,
Minneapolis, Minnesota 55414-3222.

If fewer than six comments opposing the application are received during the comment period, and the EMSRB approves the application, the applicant will be exempt from a contested case hearing, pursuant to Minnesota Statutes section 144E.11, subdivision 4. If six or more comments in opposition to the application are received during the comment period or the EMSRB denies the application, the applicant may immediately request a contested case hearing, or may try to resolve the objections of the public and/or the EMSRB within 30 days, pursuant to Minnesota Statutes section 144E.11, subdivision 5(a), (b). If the applicant is unable to resolve the objections within 30 days, or if the applicant initially requests a contested case hearing one will be scheduled and notice of the hearing given pursuant to Minnesota Statutes section 144E.11, subdivision 5(c), (e).

Dated: 11 October 2004

Mary F. Hedges, Executive Director

**Minnesota Department of Health
Division of Environmental Health
Asbestos, Indoor Air, Lead and Radiation Section
Radiation Control Unit**

REQUEST FOR COMMENTS on Possible Repeal of Rules Governing Ionizing Radiation, Minnesota Rules, Chapter 4730 and Replacement with Rules Governing Equipment that Produces Ionizing Radiation, *Minnesota Rules*, Chapter 4732

Subject of Rules. The Minnesota Department of Health requests comments on its possible repeal of rules governing ionizing radiation and their replacement with rules governing equipment that produces ionizing radiation (x-ray equipment, accelerators, and cyclotrons). The Department is currently adopting Minnesota Rules, chapter 4731, relating to Radiation Safety. These rules will supercede many rule parts found in chapter 4730; however, because chapter 4731 generally will not apply to equipment that produces ionizing radiation, the Department plans to retain the rule parts specific to that issue. In the chapter 4730 rule parts that will be retained, the Department proposes to adopt dose standards consistent with chapter 4731, to amend rules pertaining to quality assurance and quality control, to incorporate new language that will address advancements in technology, to establish requirements for service providers, and to restructure the rules to coincide with applications within the regulated community. The Department has determined that the extensive restructuring required to delete some parts of chapter 4730 and amend the remaining parts would be confusing to regulated parties. Therefore we are proposing to repeal chapter 4730 and replace it with a new chapter 4732.

Persons Affected. The repeal and replacement of the rules would likely affect medical and industrial users of equipment that produces ionizing radiation, including: hospitals and clinics; chiropractic, dental, podiatric, and veterinary practices; industrial radiography operations; and research facilities.

Statutory Authority. Minnesota Statutes, section 144.12, authorizes the Department to adopt rules for the preservation of public health. Subdivision 1, paragraph (15) of that section specifically authorizes the Commissioner to develop rules governing sources of radiation.

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until further notice is published in the *State Register* that the Department intends to adopt or withdraw the rules. The Department is considering appointing an advisory committee to provide guidance during the rulemaking process.

Rules Drafts. The Department has not yet prepared a draft of the possible rules repeal and replacement. At the time a draft is ready for public release the Department will make it available to all who have requested a copy from the agency contact person listed below.

Agency Contact Person. Written comments, questions, requests to receive a draft of the rules when it is prepared, and requests for more information on these possible rules should be directed to:

George F. Johns, Jr.
Minnesota Department of Health
1645 Energy Park Drive, Suite 300
St. Paul, Minnesota 55108
Phone: (651) 642-0492
Fax: (651) 643-2152

Alternative Format. Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Note: Comments received in response to this notice will not necessarily be included in the rulemaking record submitted to the administrative law judge when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

Dated: 11 October 2004

Patricia A. Bloomgren, Director
Environmental Health Division, Department of Health

Official Notices

Office of Ombudsman for Mental Health and Mental Retardation Notice of Advisory Committee Meeting

The Ombudsman for MH/MR Advisory Committee will hold a meeting from 9:00a.m. to 1:00p.m. on Thurs., Oct. 21, 2004. The meeting will be held in Suite 420 of the Metro Square Building on 7th & Robert St., St. Paul, Minnesota. Please RSVP to Paula at (651) 296-3848 or (800) 657-3506.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Administration

Minnesota Governor's Council on Developmental Disabilities Request for Proposals to Provide Administration and Operation of a One-Stop Support Center for Families of Children with Developmental Disabilities in the Jordan Community of Minneapolis

The Department of Administration, through the Minnesota Governor's Council on Developmental Disabilities, proposes to create a one-stop family support center to assist at least 50 targeted families annually to preserve, maintain, and strengthen the family unit. The family center will provide services and supports as identified by families in the Jordan community of Minneapolis. The project is for one year, with the possibility of renewal for up to four more years, depending upon the availability and level of funds.

Proposals are sought from culturally competent nonprofit agencies or organizations, or faith communities, who have demonstrated success in providing services to families in the Jordan community of north Minneapolis, have an ongoing service relationship with Jordan residents, and are committed to a family-centered service approach.

The funds available under this Request for Proposals (RFP) are provided by a grant to Minnesota from the Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services. The maximum funding for this year is \$245,000. Please review the full RFP for more information on center requirements.

All proposals must be received no later than 3:00 p.m., Wednesday, Nov. 17, 2004, in the manner specified in the RFP document. Late proposals will not be accepted.

The complete RFP is on the Council's website, at <http://www.mnddc.org/>. Click on "The Council," then click on "News and Events." To receive a paper copy of the RFP, please contact:

Mary Jo Nichols
Minnesota Governor's Council on Developmental Disabilities
370 Centennial Office Building
658 Cedar Street
St. Paul, MN 55155
Email: admin.dd@state.mn.us
Voice: (651)-282-2899
Fax: (651) 297-7200
TTY: (800) 627-3529 Minnesota Relay Service

Please refer to this notice in your written request. In your request include your complete street mailing address, email address, phone number and fax number

Minnesota Department of Human Services Request for Proposals for Competitive Urban Primary Support Program Primary to Implement the Indian Child Welfare Act

The Minnesota Department of Human Services is requesting proposals to: Award Competitive Urban Primary Support Grants to Indian child welfare programs whose goals are consistent with the federal Indian Child Welfare Act (25 U.S.C. 1901 et. Seq.) and the Minnesota

State Grants & Loans

Indian Family Preservation Act (Minnesota Statutes, 260.751 to 260.835). These services include social services activities that focus on strengthening Indian families and preventing the need for placement outside the family home. This request for proposals is focused upon eligible multi-service Indian organizations and tribal social service agency programs located off-reservation which serve all urban Indian residents, regardless of tribal affiliation, living in the communities of Minneapolis, St. Paul and Duluth.

Requests for the Request for Proposals Packet can be directed to:

Lorna Batton
Department of Human Services
Child Safety and Permanency Division
444 Lafayette Road North
St. Paul, MN 55155-3832
Phone: 651-296-2217
e-mail: lorna.batton@state.mn.us

Proposals must be received no later than 4:30 p.m. on December 6, 2004

Minnesota Department of Human Services Request for Proposals for Special Focus Grant Program to Implement the Minnesota Indian Family Preservation Act

The Minnesota Department of Human Services is requesting proposals to: Award Competitive Special Focus Grants pursuant to Minnesota Statutes, section 260.785 Subd. 2., to local social service agencies, tribes, Indian organizations, and other organizations for out-of-home placement prevention and family reunification services for Indian children. Pursuant to Minnesota Statutes, section 260.795, Subd. 1 (c), the Commissioner shall give preference to programs that use Indian staff, contract with Indian organizations or tribes, or whose application is a joint effort between the Indian and non-Indian community to achieve the goals of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act. Programs must have support from the Indian Community.

Requests for the Request for Proposals Packet can be directed to:

Lorna Batton
Department of Human Services
Child Safety & Permanency Division
444 Lafayette Road North
St. Paul, MN 55155-3832
Phone: 651-296-2217
e-mail: lorna.batton@state.mn.us

Proposals must be received no later than 4:30 p.m. on December 6, 2004.

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Minnesota Department of Human Services Notice of Request for Proposals to Conduct Medical Necessity Determination Reviews

The Minnesota Department of Human Services (DHS) is interested in contracting for professional and technical consulting services to conduct up to 1,200 medical necessity determination reviews of Medical Assistance (MA) and State Children's Health Insurance Program (SCHIP) Fee-For-Service Claims for the Payment Error Rate Measurement (PERM) types of services i.e., Inpatient Hospital Services; Long-Term Care Services; Other Independent Practitioners and Clinics; Prescribed Drugs; Home and Community-Based Ser-

State Contracts

VICES; and Other Services and Supplies. The reviews must be conducted in accordance with DHS's sampling plan and the Medical Review Training Guide developed by Delmarva Foundation for Medical Care, Inc. The reviews must be performed within the State of Minnesota.

DHS is requesting proposals from qualified parties with a minimum of ten years experience in conducting medical necessity determination reviews for MA and SCHIP and familiarity with the State's MA and SCHIP policy, medical necessity criteria, and applicable coding rules.

The contract period is expected to begin by January 03, 2005 and last through December 30, 2006.

Responders will be responsible for all costs and expenses incurred in responding to this Request for Proposals. DHS reserves all rights to proceed in whatever manner it perceives to be in its best interest, and may cancel this Request for Proposals at any time and/or choose not to purchase any services or solutions from outside resources.

A copy of the Request for Proposals can be obtained from the DHS website at www.dhs.state.mn.us or by contacting:

Sara Koppe
Minnesota Department of Human Services
Performance Measurement and Quality Improvement
444 Lafayette Road North
St. Paul, MN 55155-3865
Phone #: (651) 215-6260
Fax #: (651) 215-5754
E-mail: sara.koppe@state.mn.us

Response to this solicitation is due no later than 4:20 P.M., Central Time, on November 15, 2004.

Minnesota House of Representatives

Public Information Services Office

Public Notice of Request for Bid for Mailing of the House Public Information Services Office Publication *Session Weekly*

NOTICE IS HEREBY GIVEN that the Minnesota House of Representatives Public Information Services Office is seeking bids from qualified mail houses to provide mailing services for the publication *Session Weekly*.

The size of the publication will be 8.5" X 11" and it is mailed at the Periodicals Rate.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to 100 Rev. Dr. Martin Luther King Jr. Blvd, Room 175, State Office Building, no later than Monday, November 1, 2004, at 2 p.m. Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling: Paul Battaglia, 175 State Office Building, St. Paul, Minnesota 55155-1298, (651) 296-8904, or Barry LaGrave, (651) 297-1338.

Other department personnel are NOT allowed to discuss the Request for Bid with anyone, including responders, before the proposal submission deadline.

Minnesota House of Representatives

Public Information Services Office

Public Notice of Request for Bid for Printing the *Session Weekly*

NOTICE IS HEREBY GIVEN that the Minnesota House of Representatives Public Information Services Office is seeking bids from qualified printers to provide printing services for the *Session Weekly*.

The size of the publication is 8-1/2 x 11, 24 pages, self cover.

All work must be done in-house – unless specifically approved by us.

All bids must be submitted on the forms accompanying the specifications in a sealed envelope and delivered to 100 Rev. Dr. Martin Luther King Jr. Blvd, Room 175, State Office Building, no later than Monday, November 1, 2004, at 2 p.m. Bid submittals will be opened publicly on that date and time.

A copy of the Request for Bid packet can be obtained by calling:

Paul Battaglia, 175 State Office Building, St. Paul, Minnesota 55155-1298, (651) 296-8904, or Barry LaGrave, (651) 297-1338.

Other department personnel are NOT allowed to discuss the Request for Bid with anyone, including responders, before the proposal submission deadline.

Department of Transportation**Engineering Services Division****Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (the “Consultant Pre-Qualification Program”)**

This document is available in alternative formats for persons with disabilities by calling Robin Valento at (651) 284-3622 for persons who are hearing or speech impaired by calling the Minnesota Relay Service at (800) 627-3529.

Mn/DOT, working in conjunction with the Consultant Reform Committee, the Minnesota Consulting Engineers Council, and the Department of Administration, has developed the Consultant Pre-qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT anticipates that most consultant contracts for highway-related technical activities will be awarded using this method, however, Mn/DOT also reserves the right to use RFP or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to complete or use the Consultant Pre-qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT’s Consultant Services web site, indicated below, to see which highway related professional/technical services are available at this time. Following the advertisement of particular category of services, applications will be accepted on a continual basis.

All expenses incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and application forms are available on Mn/DOT’s **web site** at: <http://www.dot.state.mn.us/consult>

Send completed application material to:

Robin Valento
Pre-Qualification Administrator
Minnesota Department of Transportation
Consultant Services
395 John Ireland Boulevard, Seventh Floor North, Mail Stop 680
St. Paul, MN 55155

Note: DUE DATE:

APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation**Engineering Services Division****Notice Concerning Professional/Technical Contract Opportunities**

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT’s Consultant Services **website** at: www.dot.state.mn.us/consult.

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Hawthorne Area Community Council (HACC)**Notice of Request for Proposals for Housing Development**

Notice of request for developer’s proposal for development of housing on Block 009 in the Hawthorne neighborhood of North Minneapolis. HACC intends to develop the block located on the east side of Lyndale Ave N between 23rd and 24th Avenues N for medium-

Non-State Contracts & Grants

density housing consisting of a variety of housing types with commercial/office space at the Lyndale/24th Ave node. The anticipated schedule for the project is given below:

<i>Date of RFP Issuance</i>	11/01/04
<i>Deadline for questions regarding RFP</i>	12/31/04
<i>Response to RFP questions</i>	01/15/05
<i>Proposals due by 3 p.m.</i>	01/31/05
<i>Selection of Developer</i>	03/01/05
<i>Financing Due</i>	05/01/05
<i>Construction to begin with a one-year completion date of May 1, 2006.</i>	05/01/06

Firms interested in this project should submit a written request for a copy of the RFP from the contact listed below.

Janne Flisrand
Hawthorne Area Community Council
2944 Emerson Ave N
Minneapolis, MN 55411
E-mail: jflisrand@hawthornecommunity.org
Phone: (612) 529-6033

Metropolitan Council

Notice of Request for Proposals (RFP 04P056) 2005 - 2010 Metro Mobility Demand Service

The Metropolitan Council is requesting service proposals for two contractors to provide Metro Mobility Demand Service during the period 2005 to 2010.

<i>Issue Request for Proposals</i>	10/25/2004
<i>Pre-proposal meeting</i>	11/08/2004
<i>Receive Proposals</i>	12/10/2005
<i>Contract negotiated, executed, NTP</i>	03/04/2005

All firms interested in being considered for this project and desiring to receive a RFP package are invited to submit a Letter of Interest to:

Harriet Simmons, Senior Administrative Assistant
Metropolitan Council
230 East Fifth Street
Mears Park Centre
St. Paul, MN 55101
PHONE: 651-602-1086
FAX: 651-602-1083
E-mail: harriet.simmons@metc.state.mn.us

Metropolitan Council - Metro Transit

Sealed Bids Sought for Passenger Waiting Shelters

Metro Transit, a division of the Metropolitan Council, is soliciting sealed bids for passenger waiting shelters. Bids are due by 2:00 p.m. on November 9, 2004. Bids must be submitted in accordance with the Invitation for Bids document available from:

Metropolitan Council
Metro transit Purchasing Department
515 N. Cleveland Avenue
St. Paul, MN 55114
(612) 349-5070

Non-State Contracts & Grants

Minnesota State Court, 4th Judicial District (Hennepin County) Request for Proposal for Conversion of 4th Judicial District Case Tracking Data to MNCIS

The 4th Judicial District is seeking proposals from qualified vendors to provide data conversion services for three case tracking systems that will be migrated to the State Court MNCIS system. A qualified vendor will be able to provide end-to-end solutions (including project management, planning, analysis and design, programming and execution).

The Request for Proposals can be downloaded from the Minnesota State Court website at:

<http://www.courts.state.mn.us/news/postingList.aspx?category=news&pageID=130>

or is available by writing or calling Jim Wehri, 4th Judicial District, C-1251 Government Center, 300 So 6th St, Minneapolis, MN 55487.
Telephone: (612) 348 6060, or **E-mail:** jim.wehri@courts.state.mn.us.

A vendor conference is scheduled for October 6, 2004 at 1:30 PM in the Hennepin County Auditorium, A-Level, Hennepin County Government Center, 300 So 6th St., Minneapolis, MN.

Proposals must be received no later than 4:00 p.m. local (i.e., Minneapolis) time on October 25, 2004. Late proposals will not be accepted.

Three Rivers Community Action, Inc. Notice of Bid Proposals to Operate a Transit System

BID PROPOSALS CLOSES NOVEMBER 15, 2004 at 12:00 PM in ZUMBROTA, GOODHUE COUNTY, MINNESOTA

Sealed proposals for the project listed below will be received at the THREE RIVERS COMMUNITY ACTION, INC, 1414 NORTH STAR DR, ZUMBROTA, MINNESOTA, 55992, until November 15, 2004 at 12:00 PM, at which time they will be opened and read.

REQUEST FOR PROPOSALS TO OPERATE TRANSIT SYSTEM

NOTICE IS HEREBY GIVEN that sealed proposals will be received by the HIAWATHALAND TRANSIT SYSTEM, at the office of the THREE RIVERS COMMUNITY ACTION, INC., 1414 NORTH STAR DRIVE, ZUMBROTA, MINNESOTA, until 12:00 PM, local time MONDAY, NOVEMBER 15, 2004 for the operation of a public transit services titled "HIAWATHALAND TRANSIT" for the period from January 1, 2005 through December 31, 2006.

HIAWATHALAND TRANSIT is a multi-county system, subsidized with state and federal public transit dollars, which utilizes small chassis cut-away buses to transport passengers. Hiawathaland Transit will operate in the following service areas:

- a. Cannon Falls
- b. Lake City
- c. Wabasha/Kellogg
- d. Plainview/Elgin
- e. Red Wing

The RFP documents and forms may be obtained, at no cost, at the office of THREE RIVERS COMMUNITY ACTION INC., 1414 NORTH STAR DRIVE, ZUMBROTA, MINNESOTA, 55992. The contact person for all communication involving the RFP is:

Amy Kuchera, Transportation Director
Three Rivers Community Action, Inc.
1414 North Star Drive
Zumbrota, Minnesota 55992
(507) 732-8558

Other agency personnel are not allowed to discuss the RFP with anyone, including potential responders, before the RFP submission deadline.

Pursuant to Federal and State requirements, a Disadvantaged Business Enterprises (DBE) goal has been assigned for work under this RFP. The contract awarded under this RFP will include the following language, which the contractor must agree to:

"DISADVANTAGED BUSINESS ENTERPRISES CERTIFICATION: Our firm will meet a minimum goal of ___% of this contract to Disadvantaged Business Enterprises".

A bidder who fails to indicate a specific goal above must fulfill the goals indicated in this proposal.

Three Rivers Community Action, Inc. reserves the right to waive minor irregularities and informalities therein, to reject any and all bid proposals, to award to other than the lowest bidder, and to award the agreement in the best interests of Three Rivers Community Action,

Non-State Contracts & Grants

Inc. and the Hiawathaland Transit System, Zumbrota, Minnesota.

By Order of Three Rivers Community Action, Inc. and the Hiawathaland Transit Advisory Committee.

Dated: 14 October 2004

Amy Kuchera, Transportation Director,
Three Rivers Community Action, Inc.

Jim Bryant, Chair
Hiawathaland Transit Advisory Committee

University of Minnesota

Notice of Bid Information Service (BIS) Available for All Potential Vendors

The University of Minnesota offers 24 hour/day, 7 day/week access to all Request for Bids/Proposals through its web based Bid Information Services (BIS). Subscriptions to BIS are \$75/year. Visit our web site at bidinfo.umn.edu or call the BIS Coordinator at (612) 625-5534.

Request for Bids/Proposals are available to the public at no charge each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Mpls., MN 55454.

University of Minnesota

2005 Consultant Prequalification Program Request for Qualifications (RFQ)

The University of Minnesota is accepting submittals for its prequalification program for architects, engineers, and other providers of professional services for small construction projects (where the consultant's fee is under \$100,000). This program is currently planned to be in effect for all of calendar 2005, however the University reserves the right to terminate the program prior to December 31, 2005.

In most cases, consultants who prequalified in 2004 will automatically have their prequalifications renewed for calendar 2005. Consultants who prequalified in 2004 do NOT have to submit new documents for 2005 UNLESS the information in their existing prequalification profile needs to be updated, or unless their firm has been disbarred, suspended, filed bankruptcy, or has entered into a relationship that constitutes a conflict of interest.

Consultants need not prequalify under this program in order to submit proposals on large University projects (where consultant fees are over \$100,000). Projects in this category are awarded by an open RFP process.

Consultants wishing to submit documents for the 2005 Consultant Prequalification Program may download the RFQ document, instructions, and forms at the following web site beginning Monday October 11, 2004: www.cppm.umn.edu/rfq.html The deadline for both new submittals, and updated profiles is 2:00 p.m. CST Wednesday November 17, 2004. Documents received after this deadline will not be accepted.

For additional information, contact: Kevin McCourt, Business Manager, Capital Planning and Project Management, by e-mail at mccourtk@facm.umn.edu, by fax at (612) 625-0770, or by phone at (612) 626-8973. Contact by e-mail or fax is preferred.

Minnesota's Bookstore

660 Olive Street, St. Paul, Minnesota 55155

(651) 297-3000; FAX: (651) 215-5733;

Web site: <http://www.minnesotasbookstore.com>

In stock and ready to ship!

10% OFF! *Trees of Minnesota Field Guide*, 194 pages, Year: 2001, Stock No.9-45, Price:\$11.66

10% OFF! *Minnesota Travel Companion: A Guide to History Along Minnesota's Highways*, 253 pages. Year: 2001. Stock No.19-114, Price:\$17.96

Minnesota's Iron Country: Rich Ore, Rich Lives, 276 pages. Year: 2004. Stock No.17-10. Price:\$19.95

Field Guide to the Freshwater Mussels of Minnesota, 144 pages. Year: 2003. Stock No.9-90. Price:\$9.95

Wingshooter's Guide to Minnesota, 346 pages. Year: 1999. Stock No.9-84. Price:\$26.95

Whitetails: Behavior, Ecology, Conservation, 160 pages. Year: 1993. Stock No.9-35. Price:\$19.95

Superior National Forest Map. Year: 2003. Stock No.12-48. Price:\$7.50

Minnesota Highway and Recreational Atlas, 183 pages. Year: 2003. Stock No.12-163. Price:\$19.95

NEW! Minnesota Contractor's Reference Manual, 372 pages. Year: 2003. Stock No.26-14. Price:\$55.00

America's Favorite Wild Game Recipes, 160 pages. Year: 2000. Stock No.19-38. Price:\$21.95

Minnesota Public Hunting Areas Map, 2 pages. Year: 1999. Stock No.12-153. Price:\$4.00

Chippewa National Forest Map. Year: 1985. Stock No.12-47. Price:\$4.00

Minnesota Atlas & Gazetteer, 96 pages. Year: 2003. Stock No.12-7. Price:\$19.95

Turtles and Turtle Watching for the North Central States, 57 pages. Year: 2004. Stock No.9-92. Price:\$9.95

